

RODOLFO CEPEDA, CLAIMANT-APPELLANT, PATRICIA LUNA AND FELIPE CEPEDA, PETITIONERS, VS. BACOLOD MURCIA MILLING CO., INC., AND/OR WORKMEN'S COMPENSATION COMMISSION, RESPONDENTS-APP...

G.R. No. L-42914. March 27, 1985

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition for the review of a decision of the Workmen's Compensation Commission dismissing a claim for sickness or injury compensation.

Rodolfo Cepeda was an employee of private respondent, Bacolod Murcia Milling Co., Inc. After having been subjected to physical and x-ray examinations and found fit for employment, he began work in 1965 as a basketman in the boiling house department of the respondent company. He worked seven (7) days a week, not less than eight (8) hours a day, rendering overtime work during the milling seasons.

During the off-milling seasons, Cepeda worked in the maintenance or repair of machines and in other projects of the private respondent.

As a basketman, Cepeda's work entailed constant exposure to heat from the boilers as well as to the heat of the sun. And in the repair of machines, he had to exert strenuous physical effort. Exposure to dust and other elements of nature was part and parcel of his work.

Cepeda rendered continuous services from 1965 until he was forced to stop working due to illness in March 1970. He was suffering from dizziness, weakness of the body and joints, sleeplessness and chronic cough. He was examined, x-rayed and treated by the company physician, Dr. Alexander Araneta who recommended that he stop working until his illness was cured or arrested. Unfortunately, Cepeda's illness was neither cured nor arrested despite treatment. He was thereafter unable to return to work. He was never subsequently employed.

On March 31, 1975, Cepeda filed a Notice of Injury or Sickness and Claim for Compensation with the Office of the Workmen's Compensation Unit, Bacolod City. To support his claim, Cepeda submitted x-ray findings dated June 5, 1972 showing his illness to be "PTB minimum questionably active." Subsequently, an x-ray report dated May 30, 1973 was submitted with the finding of "Pulmonary Tuberculosis, moderately advanced." The report was issued by Dr. F. T. Geslani of the Bacolod Sanitarium and Hospital who treated him. Further evidence was presented by Cepeda consisting of another x-ray report issued by Dr. Amador Antonio, Medical Specialist of the Bacolod, Negros Occidental Chest Clinic confirming his tuberculosis to be "far advanced, active".

On October 8, 1975, a decision was rendered by the Workmen's Compensation Unit, Region VI, Bacolod City, in favor of the claimant, requiring the respondent company to pay the claimant the sum of Six Thousand (P6,000.00) Pesos as maximum compensation.

On appeal by the respondent company, the Workmen's Compensation Commission held:

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"After a careful examination of the entire records, we cannot but conclude that the herein claimant has miserably failed to establish his case. No Physician's Report or medical evidence was presented by the claimant to show that at the time he stopped working on March 17, 1970, he was afflicted with said ailment, and that said ailment disabled him for labor. The only medical evidence submitted in support of his claim is the X-ray findings of 'PTB minimal questionably active' at the Negros Occidental Chest Clinic on June 5, 1972 or more than two years after he allegedly stopped working with the respondent company. The X-ray findings of 'Pulmonary tuberculosis, moderately advanced' on May 30, 1973 at the Bacolod Sanitarium and Hospital, and the X-ray findings of 'PTB far advanced, active' on June 20, 1975 at the said Negros Occidental Chest Clinic. (sic) The only logical conclusion that can be arrived at is that claimant contracted his pulmonary tuberculosis, which is now in its far stage, for causes alien to, or independent of his employment as he had been out of the service for more than two years.

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"WHEREFORE, the decision under review should be, as it is hereby, reversed and respondent company absolved from any liability under the Act. No costs."

Hence, this petition for review on certiorari.

Pending this petition for review, claimant Rodolfo Cepeda, died of tuberculous meningitis. He is now represented by his parents - Felipe Cepeda and Patricia Luna as legal heirs.

The compensability of claimant's illness is assailed by respondent company which argues that the former failed to produce or present any evidence, such as physician's report or x-ray report, to show that he was suffering from pulmonary tuberculosis, during and as a result of the nature of his employment.

We have categorically ruled and the rule is now well-established that an x-ray or some other laboratory report is not necessarily an indispensable requisite to compensation. Strict rules of evidence are not applicable in workmen's compensation cases (*Fedilo v. Workmen's Compensation Commission*, G.R. No. L-43642, January 17, 1985). The Workmen's Compensation Commission is a body not governed by the technical rules of evidence (*Vda. de Labuca v. Workmen's Compensation Commission*, 77 SCRA 331). In testing the evidence on the relation between the injury or disease and employment, probability and not certainty is the touchstone (*Fedilo v. Workmen's Compensation Commission*, *supra*). What the law merely requires is a reasonable work-connection and not a direct causal relation (*Sagliba v. Employees Compensation Commission*, 127 SCRA 723). To be compensable it is enough that the hypothesis on which the workmen's claim is based is probable.

The very nature of the disease of tuberculosis establishes the probability of claimant's illness having been contracted during and as a result of the nature of his employment. Respondent company's assertion that compensability does not lie, as there was no showing that claimant was suffering from pulmonary tuberculosis when he was separated from the service is quite flimsy when we consider that tuberculosis is not a disease acquired instantaneously. It is an imperceptible disease that is breathed in and feeds on the lungs and taken with food; its presence in the body cannot easily be discerned. (*Leonardo v. Workmen's Compensation Commission*, 88 SCRA 58). It manifests itself long after the initial infection when the body defenses are down.

Medical science states that at the inception of a chronic infection of the lungs, symptoms are usually very slight. In fact, the majority of such cases are never recognized, and the patient goes on to recovery without ever having suspected that he was tubercular. The first usual symptoms are those indicative of an inflammation of the bronchi; the patient simply has a neglected cold, or one which is protracted. Onset is frequent with dyspepsia, leading to errors in diagnosis. (*Roscoe N. Gray, Attorney's Handbook of Medicine, Second Edition*). In adults, listlessness

and vague pains in the chest may go unnoticed, since they are often not severe enough to attract attention.

Unfortunately, the symptoms that most people associate with tuberculosis - cough, expectoration of purulent sputum, fever, night sweats, and hemorrhage from the lungs - do not appear in the early, most easily curable stage of the disease; often their appearance is delayed until a year or more after the initial exposure to the bacilli. ("Benjamin F. Miller, MD and Claire Brackman Keane, RN BS, Encyclopedia and Dictionary of Medicine and Nursing, page 987).

These medical facts together with the x-ray reports of the claimant clearly illustrate the gradual development of tuberculosis in its various stages. The respondent company further failed to take into account the fact that from the time the claimant was compelled by his health to discontinue working, he was no longer able to work, unable to recover from his illness which later on positively manifested itself as tuberculosis, until his death from tuberculous meningitis. The very fact that the employee was required to stop working is the best corroborative evidence on the stage of his health at the time his services had ceased.

All the evidence points to the conclusion that the claimant suffered his illness during his employment and as a result thereof. There is evidence and jurisprudence to show that tuberculosis is considered an occupational disease in such occupation as that of a laborer and hence, compensable (*Villones v. Employees' Compensation Commission*, 92 SCRA 293). Note that even in a less taxing job such as that of a schoolteacher, tuberculosis has been held to be an occupational hazard (*Pacoli v. Republic*, 92 SCRA 293; *Villones v. Employees' Compensation Commission*, 92 SCRA 320).

Further supporting claimant's cause is the private respondent's failure to controvert the claim and its having been rendered by the hearing officer of the Workmen's Compensation Unit, Bacolod City to be in default. The employer's failure to controvert the claim for compensation is equivalent to a waiver of the right to assail the claim on jurisdictional grounds, barring all defenses without exception, including waiver of the defense that the claim for compensation was not filed within the statutory period (*National Housing Corporation v. Workmen's Compensation Commission*, G.R. No. L-43453, January 31, 1985). Thus, the employee's claim cannot now be denied.

In determining the governing law in Workmen's Compensation Commission cases, it is the date on which the claimant contracted his illness which is material. In the case at bar, the claimant contracted his disease in March, 1970 and thus the applicable law would still be the Workmen's Compensation Act and not Presidential Decree No. 442.

This Court has not reconsidered and, therefore, reiterates the rule enunciated in various cases that in cases falling under the Workmen's Compensation Act, such as this, where the illness or disability was suffered before January 1, 1975, (the date of effectivity of the present Employees' Compensation Law) the prescriptive period for filing a claim is ten (10) years counted from the time the employee was actually disabled for work due to illness. That the claim was filed after the claimant was separated from the service is not a fatal defect which will deprive the Workmen's Compensation Commission of its jurisdiction to entertain the claim legally due. The compensation under the old Workmen's Compensation Act as amended is a liability vested by statute which prescribes in ten (10) years pursuant to Article 1142 (2) of the Civil Code. The rule is especially applicable when it is shown that the employer had actual knowledge of the illness or disability and there is no showing that the employer sustained damage as a result of the delayed filing of the claim (*Vallo v. Workmen's Compensation Commission*, 73 SCRA 623; *Leonardo v. Workmen's Compensation Commission*, 88 SCRA 58; *Corales v. Workmen's Compensation Commission*, 88 SCRA 547; *Balanga v. Workmen's Compensation Commission*, 88 SCRA 721; *Espiritu v. Workmen's Compensation Commission*, 84 SCRA 636; *Viray v. Workmen's Compensation Commission*, 86

SCRA 68; and G.B. Francisco v. Workmen's Compensation Commission, 87 SCRA 22).

WHEREFORE, IN VIEW OF THE FOREGOING, the petition is hereby GRANTED. The decision of the Workmen's Compensation Commission is REVERSED and SET ASIDE. The decision of the Workmen's Compensation Unit, Sub-Regional Office No. VI, Bacolod City is REINSTATED but MODIFIED as follows -

The private respondent is hereby ordered —

1. To pay the claimant's heirs the sum of SIX THOUSAND PESOS (P6,000.00) as maximum compensation;
2. To pay the sum of SIX HUNDRED PESOS (P600.00) as attorney's fees; and
3. To pay the sum of SIXTY ONE PESOS (P61.00) as administrative fees to the Ministry of Labor and Employment.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Relova, De La Fuente, and Alampay, JJ., concur.

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